

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

LUIS ALONZO REYES-FRAIRE,	§	
Petitioner,	§	
V.	§	
	§	
FEDERAL BUREAU OF PRISONS and	§	A-15-CV-00287-RP-ML
WARDEN CHERON NASH,	§	
Respondents.	§	

**REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Before the Court is Petitioner Luis Alonzo Reyes-Fraire’s Petition for Writ of Habeas Corpus [Dkt. #1] and Defendants’ Response thereto [Dkt. #11]. The Petition and related briefing have been referred to the undersigned by United States District Judge, Robert Pitman, for Report and Recommendation pursuant to 28 U.S.C. § 636(b) and Rule 1(e) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas.

I. Background

Petitioner challenges the computation of his term of incarceration. He asserts his two federal sentences have been ordered to run concurrently but his term of incarceration has been calculated as if the sentences run consecutively. Defendants concur, and have recalculated Petitioner’s term of incarceration to reflect the concurrent sentences. Resp. [Dkt. #11] at Ex. 2, Decl. Forest Kelly. Defendants represent under oath that Petitioner is aware of the recalculation and has “indicated he is satisfied” with the revised sentence computation and believes it to be correct. *Id.* at Ex. 3, Decl. Francene Helaire.

II. Analysis

Petitioner sought an order directing the Bureau of Prisons and Warden Nash to comply with the judgment of the District Court in Crim. No. 4:14-CR-00091-(23) that Petitioner's sentence in that case should run concurrently with his prior sentence in docket number DR-09-CR-387-(1)-MAL. The Bureau of Prisons has now recalculated Petitioner's sentence and adjusted his term of imprisonment by 1,799 days to reflect the concurrent sentencing. Resp. [Dkt. #11] at 2. It thus appears Petitioner has received all the relief sought in his §2241 petition.

II. Recommendation

Accordingly, the undersigned RECOMMENDS Petitioner's § 2241 Petition [Dkt. #1] be DISMISSED without prejudice as moot in light of the reported administrative resolution of his complaint.

III. Objections

The parties may file objections to this Report and Recommendation. A party filing objections must specifically identify those findings or recommendations to which objections are being made. The District Court need not consider frivolous, conclusive, or general objections. *See Battles v. United States Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

A party's failure to file written objections to the proposed findings and recommendations contained in this Report within fourteen (14) days after the party is served with a copy of the Report shall bar that party from de novo review by the District Court of the proposed findings and recommendations in the Report and, except upon grounds of plain error, shall bar the party from appellate review of unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See* 28 U.S.C. § 636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53, 106

S. Ct. 466, 472-74 (1985); *Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415 (5th Cir. 1996)(en banc).

To the extent that a party has not been served by the Clerk with this Report & Recommendation electronically, pursuant to the CM/ECF procedures of this District, the Clerk is ORDERED to mail such party a copy of this Report and Recommendation by certified mail, return receipt requested.

SIGNED November 23, 2015.



MARK LANE
UNITED STATES MAGISTRATE JUDGE